



To: Snyderville Basin Planning Commission (SBPC)
Report Date: Friday, September 10, 2010
Meeting Date: Tuesday, September 28, 2010
From: Adryan Slaght, County Planner
RE: Murnin Kilgore (Base Camp Plaza) Final Subdivision Plat
Type of Item: Public Hearing
Additional Meetings: Public Meeting before Summit County Manager

EXECUTIVE SUMMARY: The Murnin Kilgore Development received a consent agreement from Summit County on December 3, 2003, which vested the developers with regards to uses and density. The applicants have proposed a plan that would be consistent with the agreed upon uses, but would split the existing development parcels into four development pads. All subdivisions of land in Utah require a public hearing prior to approval. **Staff is recommending that the SBPC consider the information provided in this report, conduct a public hearing, and recommend approval of the proposed subdivision.**

A. Project Description

- **Project Name:** Base Camp Development Final Subdivision Plat
- **Applicant(s):** Michael Barille
- **Property Owner(s):** PC Venture Partners III LLC c/o George Chachas
- **Location:** 4395 N Hwy 224, Snyderville Basin
- **Zone District & Setbacks:** Hillside Stewardship (HS), front – 30ft, side & rear – 12 ft, 100 ft from Hwy 224 ROW
- **Adjacent Land Uses:** Commercial, Residential,
- **Existing Uses:** There is a residential building on the property
- **Parcel Number and Size:** PP-106, 5.35 acres; PP106-1, 0.51 acres
- **Lot of Record Status:** PP-106 and PP-106-1 are developable parcels

B. Community Review

This item is a public hearing and has been noticed as such. As of the date of this report, no comment has been received. Final approval will be required from the County Manager.

Service providers have been given opportunity to review the proposed project.

UDOT – Indicated that it is unlikely they will approve access onto Hwy 224 (increasing the importance of access to Sunpeak for all development pods)

Park City Fire District – Need to ensure access is available

Questar – Gas lines available

Snyderville Basin Special Recreation District – May need a trail easement to be shown on the plat.

COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

P.O. Box 128

60 NORTH MAIN STREET

COALVILLE, UT 84017

PHONE (435) 336-3158 FAX (435) 336-3046

ASLAGHT@CO.SUMMIT.UT.US

WWW.SUMMITCOUNTY.ORG

Snyderville Basin Water Reclamation District – An extension of the public wastewater system will likely be required. Each building will require a separate private sewer lateral. Building C (restaurant) will require a separate grease waste line and sanitary waste line, as well as exterior grease interceptor and sampling manhole. Final design approval, line extension agreement, engineering services paid, improvement completion agreement, easements, and possible plat notes.

Summit County Engineer - abnormally high number of accidents at the Trout Bum development, center median warranted at this location to limit left turns out of and into the properties between Old Ranch Road and Silver Springs Drive. It will be UDOT's decision on how and if a change to the existing access is granted, however my office will recommend that the access:

1. If at all possible, the access be combined with the Trout Bum access (if not combined, any new access would need to meet the minimum separation requirement of UDOT/Code), and
2. The access be restricted to a right-in/right-out.

Summit County Recorder – OK with the plat, need address numbers.

C. Background

The Murnin Kilgore (BaseCamp) Consent Agreement was approved in 2003 by Summit County. The Agreement vested the property as to uses and density. Since the time of the consent agreement, various proposals have been put forth for the site, but development has not materialized. The current proposal is for the developers to delineate four development pods (A,B,C,D) on which to build the four building, 71,000 sq ft development, as allowed for in the consent agreement. The applicant has also submitted a low impact permit to staff for review of the development standards and consistency with the consent agreement.

Proposal:

Four buildings

71,000 sq ft (including 6,000 sq ft of non-fast food restaurant)

265 parking spaces

51% open space

D. Identification and Analysis of Issues

Access off of Hwy 224: Possibly the single and largest issue with the proposed development is Access onto Hwy 224. Both UDOT and the Summit County Engineer's office have expressed concerns related to access onto Hwy 224 in this location. UDOT has indicated that they would be reluctant to approve access on 224. The applicants have provided for access to Hwy 224 via SunPeak Dr for whichever of the parcels develops first. The rest of the parcels would then have access to this ingress/egress point.

E. Consistency with the General Plan

This area is located within the "Sun Peak / Silver Springs" neighborhood planning area. The stated goal of this planning area is to *"Enhance the existing residential characteristics of the neighborhood in a manner, which is compatible with the mountain environment, the public areas of the neighborhood, specially the roadway corridors and open space areas, and promote appropriate amenities, which help establish a stronger social environment and which are compatible, and in scale with the neighborhood."* Staff is of the opinion that the proposed use is consistent with the General Plan.

F. Findings/ Code Criteria and Discussion

The final site plan appears to be consistent with the Murnin Kilgore (BaseCamp) Consent Agreement and Section 10-3-14 of the Code.

Section 10-3-14 of the Code governs Subdivision Plats. The review procedures are outlined below. The County Manager is the final approving body for plats.

D. Review Procedure:

1. The CDD or designated planning staff member shall review the application and prepare a staff report to the Commission and make findings and recommendations. The Commission shall review the application and staff report and make a recommendation to the County Manager for approval, approval with conditions, or denial after a public hearing.
2. The County Manager shall review the application, staff report, and Commission findings and recommendations and thereafter approve, approve with conditions, or deny the proposal.
3. Once the County Manager approves the application, all applicable signatures shall be obtained on the final plat. The detailed final plat and preliminary title report shall be reviewed by the County Attorney for acceptability.
4. Upon approval of the County Attorney, and once all required signatures are obtained, the detailed final plat shall be recorded in the records of the County Recorder.

G. Recommendation(s)/Alternatives

Staff recommends that the SBPC evaluate the proposed Final Subdivision Plat in accordance with the Murnin Kilgore (BaseCamp) Consent Agreement, Snyderville Basin Development Code and the Snyderville Basin General Plan. Staff further recommends that the SBPC hold a public hearing to gather public comment, consider Staff's analysis and vote to forward a positive recommendation to the Summit County Manager with the finding and conditions below:

Findings:

1. The final site plan appears to be consistent with the Murnin Kilgore (BaseCamp) Consent Agreement.

Conditions:

1. The approved density per the Murnin Kilgore (BaseCamp) Consent Agreement shall not be exceeded.
2. All Service Provider requirements must be met prior to Final Site Plan and plat recordation.

Attachments(s)

Exhibit A – Vicinity Map
Exhibit B – Zoning Map
Exhibit C – Proposed Plat
Exhibit D – Site Plan and Parcel Layouts
Exhibit E – Murnin Kilgore (BaseCamp) Consent Agreement.

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Legend

- Parcels
- Rivers



0 75 150 300 Feet

Exhibit B

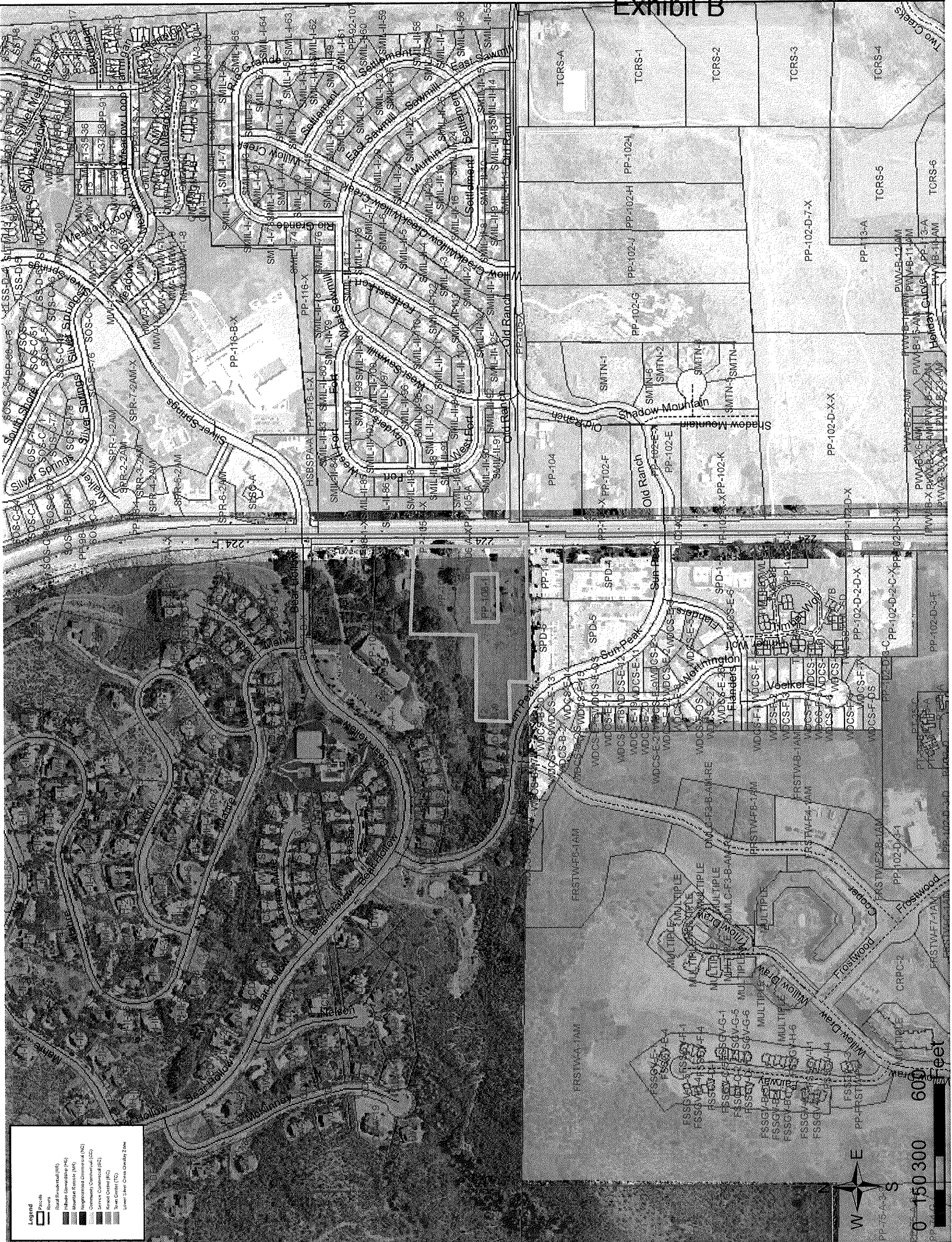
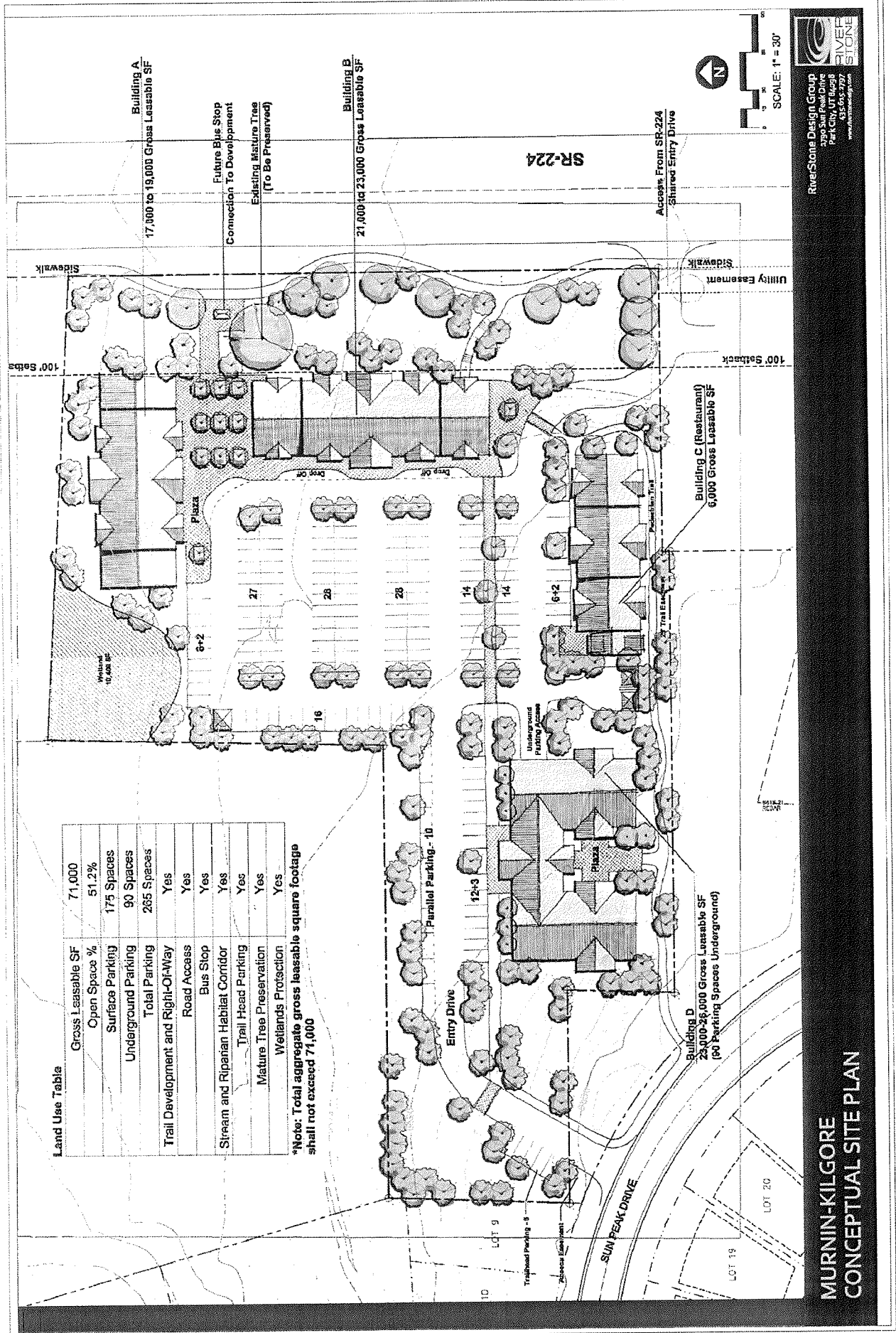
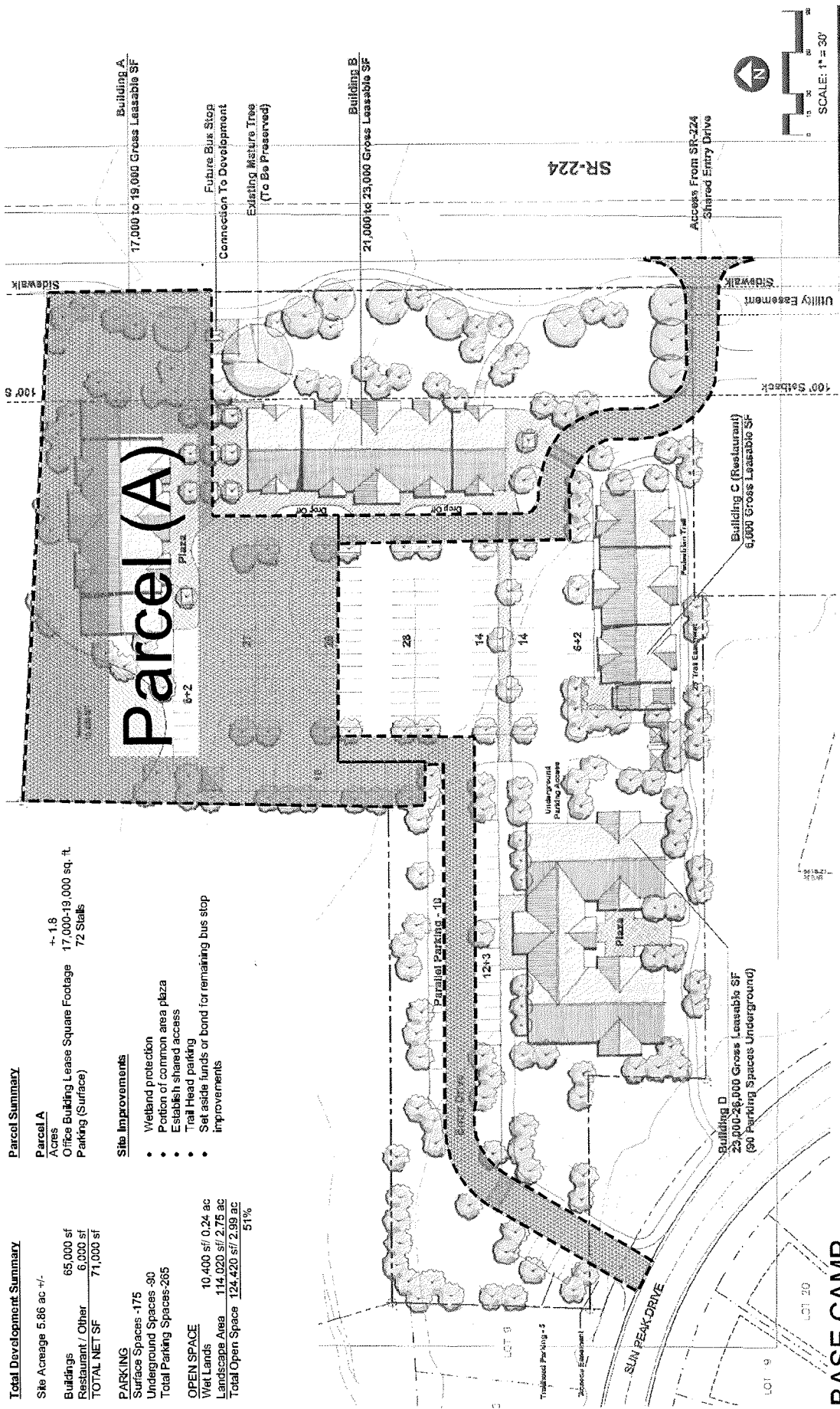


Exhibit D.1



MURNIN-KILGORE CONCEPTUAL SITE PLAN

Exhibit D.2



Total Development Summary

Site Acreage	5.86 ac +/-
Buildings	65,000 sf
Restaurant / Other	6,000 sf
TOTAL NET SF	71,000 sf
PARKING	
Surface Spaces	175
Underground Spaces	90
Total Parking Spaces	265
OPEN SPACE	
Wet Lands	10,400 sf/ 0.24 ac
Landscape Area	114,920 sf/ 2.75 ac
Total Open Space	124,420 sf/ 2.99 ac
	51%

Parcel Summary

Parcel A	
Acres	+/- 1.8
Office Building Lease Square Footage	17,000-19,000 sq. ft.
Parking (Surface)	72 Stalls

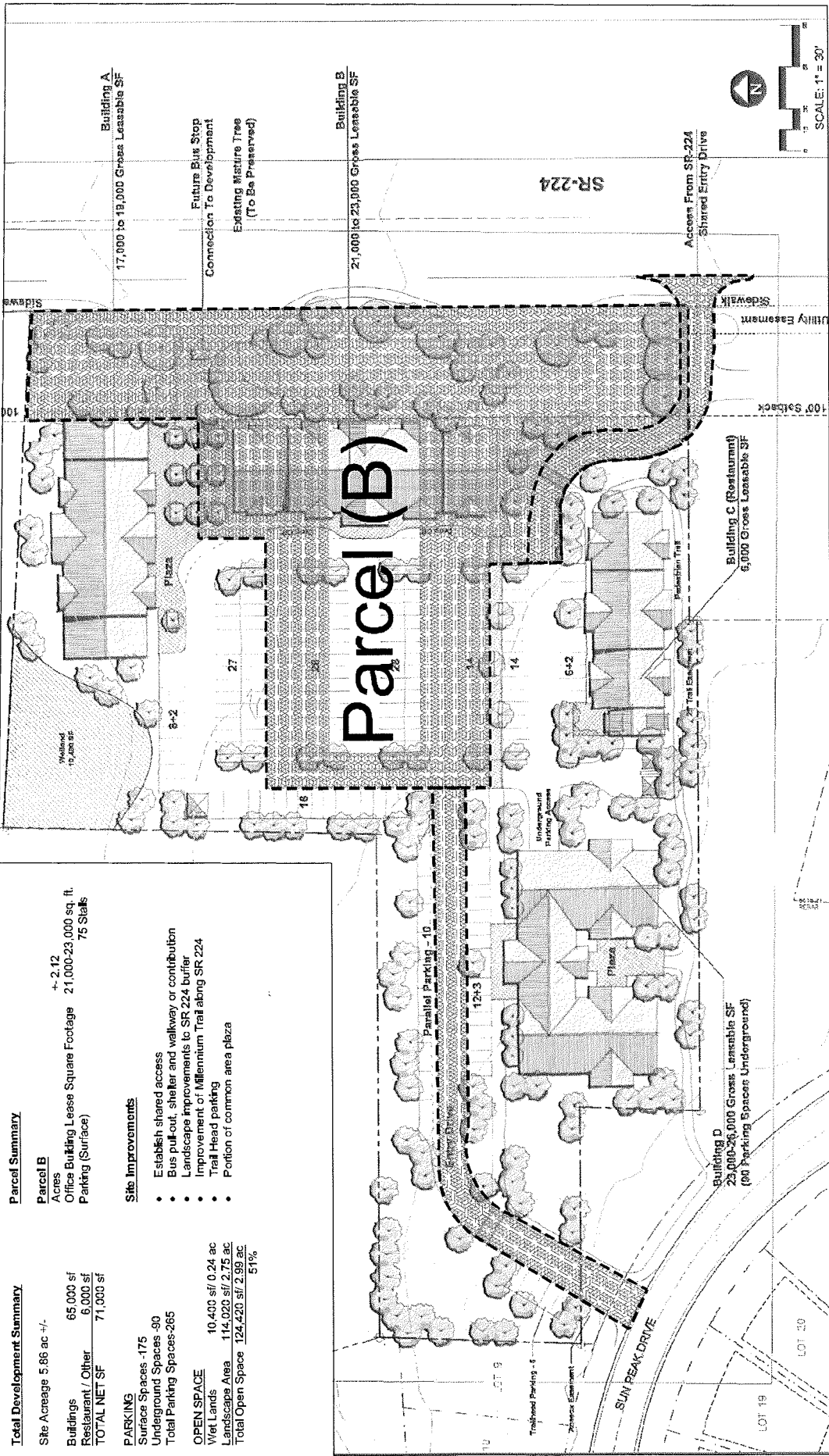
Site Improvements

- Wetland protection
- Portion of common area plaza
- Establish shared access
- Trail Head parking
- Set aside funds or bond for remaining bus stop improvements

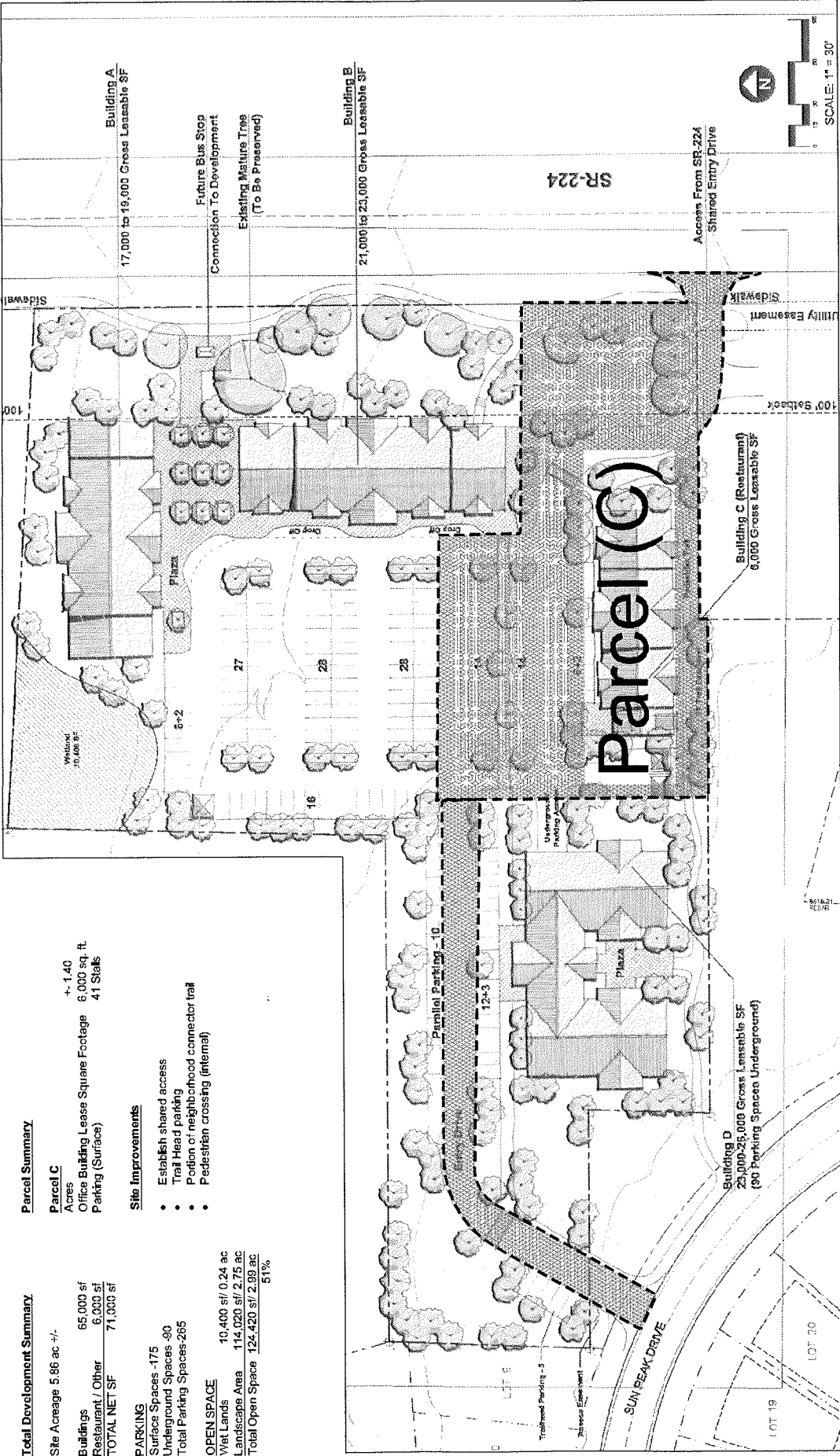
**BASE CAMP
COMMERCIAL PLAZA
Parcel Plan (A)**

Sept. 2010

Exhibit D.3



BASE CAMP
COMMERCIAL PLAZA
Parcel Plan (B)



BASE CAMP
COMMERCIAL PLAZA
Parcel Plan (C)

Sept. 2010

RECORDING REQUESTED BY:
AND MAIL TO WHEN RECORDED:

Summit County Clerk
Summit County Courthouse
Coalville, Utah 84017

ENTRY NO. 00817406

06/22/2007 01:03:03 PM B: 1873 P: 0209

Amendment PAGE 1 / 8

ALAN SPRIGGS, SUMMIT COUNTY RECORDER

FEE \$ 0.00 BY SUMMIT COUNTY CLERK



**FIRST AMENDMENT TO
CONSENT DECREE REGARDING THE MURNIN AND KILGORE
PROPERTY IN SUMMIT COUNTY, UTAH**

This First Amendment to Consent Decree Regarding the Murnin and Kilgore Property in Summit County, Utah (the "First Amendment To Consent Decree") is entered into this 20 day of June, 2007, by and between the PC Venture Partners III, LLC, the owners of the real property at issue ("PC Venture"), and Summit County, a political subdivision of the State of Utah (the "County"), by and through its Board of County Commissioners (the "Board").

This First Amendment to Consent Decree shall amend that certain Consent Decree Regarding the Murnin and Kilgore Property in Summit County, Utah (the "Consent Decree") dated December 3, 2003, by and among the Murnin Family Trust and Gary A. and Gayle Y. Kilgore, prior owners of the real property at issue (the "Murnins and Kilgores"), and the County, by and through the Board, and recorded February 9, 2004, as document no. 00688507, in the Official Records of Summit County, Utah.

RECITALS

A. The Murnins and Kilgores owned approximately 5.92 acres of land west of Highway 224 near the intersection of Highway 224 and Old Ranch Road in the Snyderville Basin in Summit County, Utah (the "Murnin and Kilgore Property" or the "property").

B. On December 3, 2003, the Murnins and Kilgores, and the County entered into the Consent Decree regarding the Murnin and Kilgore Property. The Consent Decree included an Approved Development Plan which is referenced in and attached to the Consent Decree as Exhibit B ("Approved Development Plan").

C. On April 14, 2006, PC Venture purchased all right, title and interest in the Murnin and Kilgore Property and is the successor in interest to the rights and obligations contained in the Consent Decree.

D. Section 2 of the Consent Decree provides that ... "minor modifications in the Approved Development Plan intended to improve aesthetics, traffic flow, reasonable tenant needs, etc., may be made, at the option of the Murnins and Kilgores, if the Summit County Community Development Director first determines such minor modifications do not

significantly: 1) increase density; 2) increase traffic problems; 3) diminish the community benefits described in this Consent Decree or depicted on the Approved Development Plan or 4) violate then current Summit County ordinances.”

E. It was determined by the Community Development Director, that the modifications proposed in the Alternative Approved Development Plan, were not “minor” as anticipated by the language in Section 2 of the Consent Decree (as restated above), and therefore approval of the Summit County Board of Commissioners is required.

F. PC Venture has modified the Approved Development Plan, with regard to the building configuration, the location and number of parking spaces, and the location of the proposed restaurant site, and requested that the Board approve the modified Approved Development Plan, in addition to, and as an alternative to, the original Approved Development Plan under the terms of the Consent Decree. Such that, both the existing Approved Development Plan attached to the Consent Decree as Exhibit B and PC Venture’s modified Approved Development Plan are both Approved Development Plans under the terms of the Consent Decree. PC Venture’s modified Approved Development Plan is attached hereto as Exhibit C and shall hereafter be referred to as the (“Alternative Approved Development Plan”).

G. The Summit County Community Development Director, with input from planning staff, and the Board have reviewed and acknowledge that the Alternative Approved Development Plan substantially maintains all of the community benefits described in the Consent Decree or depicted on the Approved Development Plan. However, the Board believes that the Alternative Approved Development Plan does potentially diminish certain community benefits and would require a reduction of density of the project to offset any such diminishment of community benefits.

H. PC Venture and the Board agree that a reduction of the permitted density by Three Thousand (3,000) gross leasable square feet will offset any potential diminishment in community benefits should PC Venture (or its successor) proceed with development under the Alternative Approved Development Plan. As such, the square footage depicted in the Alternative Approved Development Plan, attached hereto as Exhibit C, has been reduced by Three Thousand (3,000) gross leasable square feet, for a total of Seventy-One Thousand (71,000) gross leasable square feet.

I. The Board agrees and acknowledges that the existing Approved Development Plan, attached to the Consent Decree as Exhibit B, which provides for Seventy-Four Thousand (74,000) gross leasable square feet, and the Alternative Approved Development Plan attached hereto as Exhibit C, which provides for Seventy-One Thousand (71,000) gross leasable square feet, both maintain the community benefits provided for under the terms of the Consent Decree and are both acceptable alternative development plans under the terms of the Consent Decree.

J. This First Amendment to the Consent Decree formally adopts the Alternative Approved Development Plan, attached hereto as Exhibit C, as an alternative Approved Development Plan under the terms of the Consent Decree. This First Amendment further clarifies

Exhibit E.3

those changes to either Exhibit B or Exhibit C which may be approved administratively through the Community Development Department.

K. The parties expressly acknowledge that by amending the Consent Decree to allow development under either Exhibit B or Exhibit C, the Developers must chose between either of the two approved plans and may not develop in any manner that seeks to combine the two plans.

PC VENTURE AND THE COUNTY HEREBY AGREE AS FOLLOWS:

1. PC Venture. PC Venture is the successor in interest to the rights and obligations contained within the Consent Decree.
2. Approved Development Plan. PC Venture has submitted the Alternative Approved Development Plan, attached hereto as Exhibit C, in addition to, and as an alternative to, the Approved Development Plan under the terms of the Consent Decree. Such that, both the existing Approved Development Plan attached to the Consent Decree as Exhibit B and the Alternative Approved Development Plan attached hereto as Exhibit C, are both Approved Development Plans under the terms of the Consent Decree. The Board, the Summit County Community Development Director, and the County Attorney have determined that while the community benefits of underground parking and building location have been somewhat diminished in Exhibit C, the Alternative Approved Development Plan, as reflected in Exhibit C does not significantly: 1) increase density; 2) increase traffic problems; 3) substantially diminish the community benefits described in the Consent Decree; or 4) violate current Summit County ordinances. Based upon such determination, and the enhancement of community benefits resulting from the agreement by PC Venture to reduce density under the Alternative Approved Development Plan, the County hereby approves the Alternative Approved Development Plan, attached hereto as Exhibit C, as an alternative Approved Development Plan under the terms of the Consent Decree.
3. The County and PC Venture agree that the Alternative Approved Development Plan, attached hereto as Exhibit C, and the existing Approved Development Plan, attached as Exhibit B to the Consent Decree, shall both be Approved Development Plans under the terms of the Consent Decree.
4. All references to Exhibit B in the Consent Decree shall be replaced with the phrase "Exhibit B or Exhibit C."
5. For the purpose of the Consent Decree, all references to Exhibit B shall mean the original Approved Development Plan, attached as Exhibit B thereto, containing Seventy-Four Thousand (74,000) gross leasable square feet. All references to Exhibit C shall mean the Alternative Approved Development Plan containing Seventy-One Thousand (71,000) gross leasable square feet, attached hereto as Exhibit C.

Exhibit E.4

6. Section 2 of the Consent Decree shall be amended and restated as follows:

Rezoning and Development Approval. As of the effective date of this Consent Decree, the zoning of the Murnin and Kilgore Property is changed to a commercial in-fill zone with the specific designation of "Neighborhood Commercial." The Murnins and Kilgore, or their successors, have a vested right to develop the Murnin and Kilgore Property under the provisions of this Consent Decree and the Approved Development Plan attached as Exhibit B or Exhibit C. The location and number of entrances to each building, and/or entrances to parking garages, may be modified to meet reasonable tenant needs. Other minor modifications in the Approved Development Plan intended to improve aesthetics, traffic flow, reasonable tenant needs, etc., may be made through a Low Impact review process, at the option of the Murnins and Kilgore, or their successors, if the Summit County Community Development Director first determines such minor modifications do not significantly: 1) increase density; 2) increase traffic problems; 3) substantially diminish the community benefits described in this Consent Decree or depicted on Exhibits B or C; or 4) violate then current Summit County ordinances. Administrative decisions of the Community Development Director may be appealed as provided by applicable County ordinance and statute.

7. All other terms of the Consent Decree not inconsistent with this amendment shall remain unchanged.

8. Notices. All notices hereunder shall be given in writing by certified mail, postage prepaid, at the following addresses:

To the County, addressed to:

THE BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY
Summit County Courthouse
P. O. Box 128
Coalville, UT 84017

DIRECTOR OF COMMUNITY DEVELOPMENT
Summit County
P. O. Box 128
Coalville, UT 84017

With copies to:

SUMMIT COUNTY ATTORNEY
P.O. Box 128
Coalville, Utah 84014

To PC Venture Partners III, LLC, addressed to:

PC VENTURE PARTNERS, LLC
Attn: George G. Chachas
3488 Lady Hill Road
San Diego, CA 92130

Upon written notice to all other parties, a party may change its name and mailing addresses for receipt of notice under this subsection.

9. Applicable Law. This First Amendment to Consent Decree is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Utah.

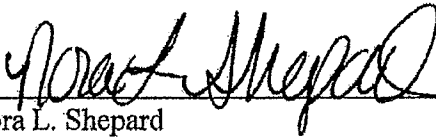
10. Execution of First Amendment to Consent Decree. This First Amendment to Consent Decree may be executed in multiple parts as originals or by facsimile copies of executed originals; provided, however, if executed and evidence of execution is made by facsimile copy, then an original shall be provided to the other party within seven (7) days of receipt of said facsimile copy.

This First Amendment to Consent Decree may be signed in counterparts, all of which together shall constitute one document with the original signature pages filed with the County Recorder.

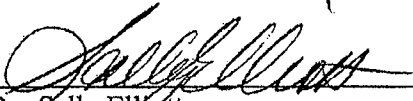
DATED this 20 day of June, 2007

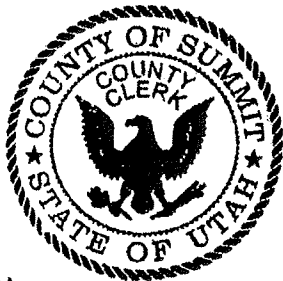
COUNTY:

COMMUNITY DEVELOPMENT DIRECTOR
SUMMIT COUNTY, STATE OF UTAH

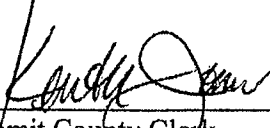

Nora L. Shepard

BOARD OF COUNTY COMMISSIONERS OF
SUMMIT COUNTY, STATE OF UTAH

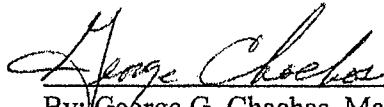

By: Sally Elliott
Chair of the Board of County Commissioners



Attest:


Summit County Clerk

PC VENTURE PARTNERS III, LLC

A handwritten signature in cursive script, appearing to read "George Chachas", is written over a horizontal line.

By: George G. Chachas, Managing Member

BURNING-KILGORE
CONCEPTUAL SITE PLAN

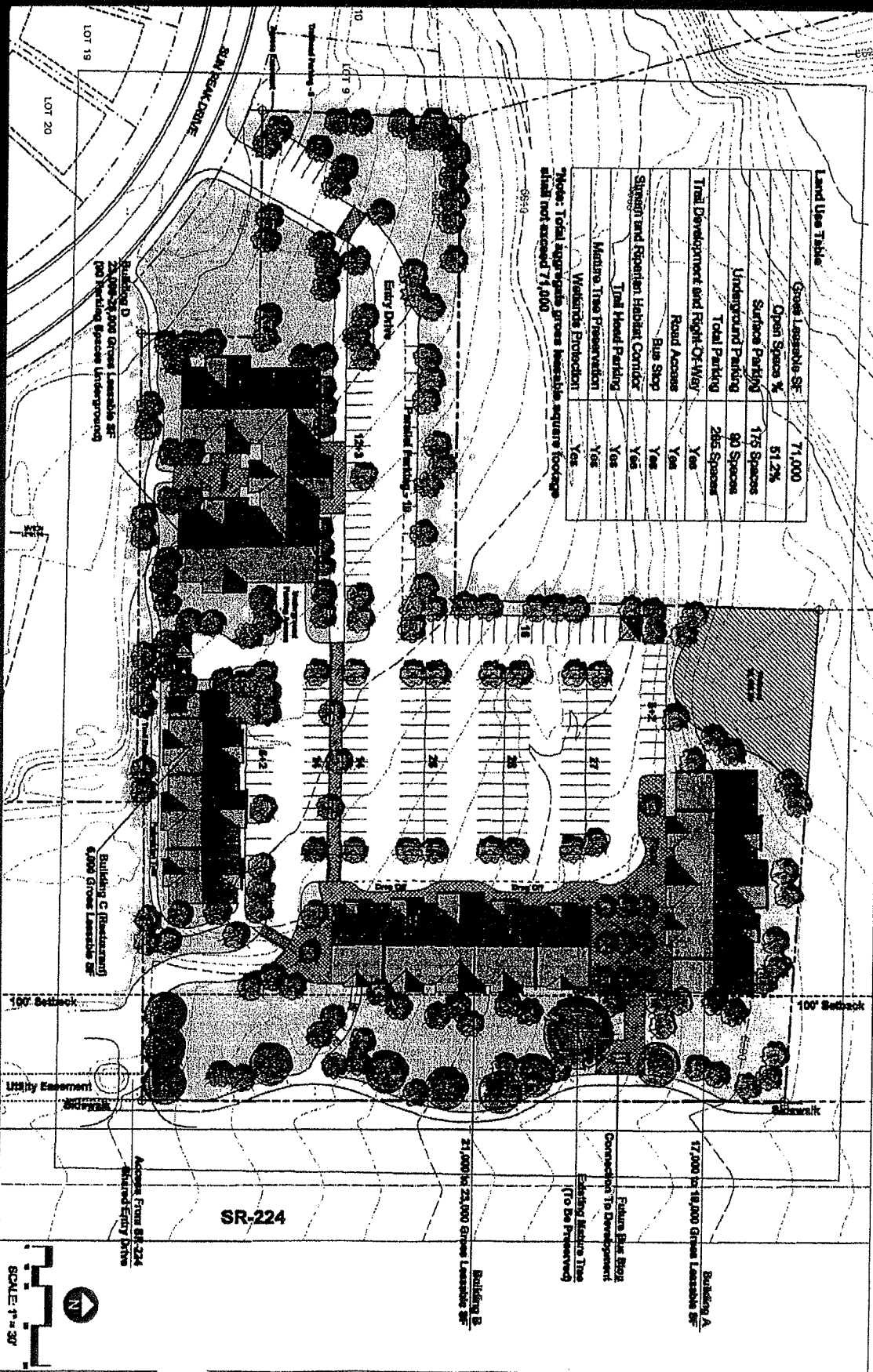


EXHIBIT C of agreement

EXHIBIT "A"

WHEN RECORDED RETURN TO:

Summit County Clerk
Summit County Courthouse
Coalville, Utah 84017

00688507 8x31598 Pg00690-00705

ALAN SPRIGGS, SUMMIT CO RECORDER
2004 FEB 09 16:04 PM FEE \$1.00 BY 662
REQUEST SUMMIT COUNTY CLERK

CONSENT DECREE REGARDING THE MURNIN AND KILGORE
PROPERTY IN SUMMIT COUNTY, UTAH

This Consent Decree Regarding the Murnin and Kilgore Property in Summit County, Utah (the "Consent Decree") is entered into this 3 day of December, 2003, by and among the Murnin Family Trust and Gary A. and Gayle Y. Kilgore, owners of the real property at issue (the "Murnins and Kilgores"); and Summit County, a political subdivision of the State of Utah (the "County"), by and through its Board of County Commissioners (the "Board").

RECITALS

- A. The Murnins and Kilgores own approximately 5.92 acres of land west of Highway 224 near the intersection of Highway 224 and Old Ranch Road in the Snyderville Basin in Summit County, Utah (the "Murnin and Kilgore Property" or the "property"). The Murnin and Kilgore Property is depicted and described in Exhibit A attached hereto and incorporated herein.
- B. The Murnin and Kilgore Property is surrounded on three sides by non-residential / commercial developments that include the Park City Community Church, the Park City Nursery, Sun Peak Commercial Center, the University of Utah Medical Clinic, and the Bruce Decker Office/Retail building. The Murnin and Kilgore Property fronts Highway 224, a busy, high-speed, four-lane State Highway that is a main artery to and from Park City, Utah.
- C. The Murnins and Kilgores do not believe the Murnin and Kilgore Property is reasonably suitable for residential uses, because of the location of the Murnin and Kilgore Property near Highway 224 and the surrounding commercial developments. The Murnins and Kilgores wish to develop their property for commercial uses, and have sought to change the zoning designation of the property from countryside residential to commercial.
- D. On March 21, 1997, the Murnins and Kilgores filed an application with the County to change the zoning of the Murnin and Kilgore Property to commercial. The County has never formally acted upon the application; however in December 1997 the County adopted a new General Plan and in March 1998 adopted a new Development Code, neither of which incorporated the Murnins requested zoning changes.

RECORDER'S NOTE

LEGIBILITY OF WRITING, TYPING OR
PRINTING UNSATISFACTORY IN THIS
DOCUMENT WHEN RECEIVED.

BK1657 PG1830

B

Exhibit E.9

- E. The Murnins and Kilgores claim the County failed to act on the zoning change application despite reasonable diligence on the part of the Murnins and Kilgores. The Murnins and Kilgores claim they met with County officials on a number of occasions and were repeatedly assured that the Murnin and Kilgore Property could be developed for commercial purposes consistent with surrounding commercial properties. The Murnins and Kilgores claim they followed all of the instructions and advice of the County officials in good faith, and relied upon the assurances of the County officials to their financial detriment. The general plan and zoning ordinances for the County have since changed as discussed above.
- F. The Murnins and Kilgores claim they have a vested right to have their zoning change application decided as it likely would have been in 1997, under the County ordinances then in effect. The Murnins believe they have a vested right to develop the Murnin and Kilgore Property as commercial property consistent with surrounding commercial properties. The Murnins and Kilgores also claim the County should be equitably estopped from denying the Murnins and Kilgores the right to develop the Murnin and Kilgore Property as commercial property consistent with surrounding commercial properties. The Murnins and Kilgores therefore applied for a Vested Rights Determination from the Board.
- G. On September 5, 2002, the Murnins and Kilgores presented their application to the Board of County Commissioners at a public hearing on the matter. After hearing from the applicant, staff and conducting the public hearing, the Board took the matter under advisement. On September 12, 2002, the Board publicly deliberated the merits of the Murnins' and Kilgores' application for a Vested Rights Determination and rendered a decision. Based on its findings detailed in the County Commission Minutes, the Board denied the Murnins' and Kilgores' vested rights claim.
- H. The Board, however, acknowledged that the Murnins' and Kilgores' equitable claim might have merit. Pursuant to the provisions of Section 9.17 of the Snyderville Basin Development Code (1998) ("Code"), the Board instructed the County Attorney, for and on behalf of the Board and County, to attempt to negotiate a Consent Decree with the Murnins and Kilgores that would allow the Murnin and Kilgore Property to be developed as commercial in-fill property with density consistent with surrounding properties, provide appropriate community benefits, in an effort to resolve the dispute between the Murnins and Kilgores and the County. As such, the County and the Murnins and Kilgores have engaged in efforts to resolve and settle the potential litigation. Based on the unique location and character of the Murnin and Kilgore Property, the Board believes the best interests of the County and its residents would be served by allowing the Murnins and Kilgores to develop the Murnin and Kilgore Property as neighborhood

Exhibit E.10

commercial in-fill, with uses consistent with the surrounding commercial properties, subject to the following terms and conditions.

- I. In early 2003, the Murnins requested, along with staff recommendation, that the decision of the Board of County Commissioners be modified to allow a site specific or specific development proposal with this Consent Decree. The Board of County Commissioners agreed in principle to this modification with the condition that input be received from the Snyderville Basin Planning Commission. On August 26, 2003, the project was reviewed by the Planning Commission as required. This Consent Decree formally adopts that modification.
- J. In March 2003 the Murnins requested, along with staff recommendation, that the restriction on retail be modified to allow limited retail compatible with office and neighborhood uses, and a restaurant. The Board of County Commissioners agreed in principle to this modification and Section 5 below formally adopts that modification.

THE MURNINS AND KILGORES AND THE COUNTY HEREBY AGREE AS FOLLOWS:

1. The Property. The Murnin and Kilgore Property is a parcel of land approximately 5.92 acres in size, located on the west side of Highway 224 near the intersection of Highway 224 and Old Ranch Road in the Snyderville Basin in Summit County, Utah. The legal description of the Murnin and Kilgore Property is attached hereto as Exhibit A.

2. Zoning and Development Approval. As of the effective date of this Consent Decree, the zoning of the Murnin and Kilgore Property is changed to a commercial in-fill zone with the specific designation of "Neighborhood Commercial." The Murnins and Kilgores, or their successors, have a vested right to develop the Murnin and Kilgore Property under the provisions of this Consent Decree and the Approved Development Plan attached as Exhibit B. The location and number of entrances to each building may be modified to meet reasonable tenant needs. Other minor modifications in the Approved Development Plan intended to improve aesthetics, traffic flow, reasonable tenant needs, etc., may be made, at the option of the Murnins and Kilgores, if the Summit County Community Development Director first determines such minor modifications do not significantly: 1) increase density; 2) increase traffic problems; 3) diminish the community benefits described in this Consent Decree or depicted on Exhibit B; or 4) violate then current Summit County ordinances. Administrative decisions of the Community Development Director may be appealed as provided by applicable County ordinance and statute.

3. Building Number and Configuration. The property shall contain four (4) buildings containing leasable space as generally depicted in the Approved Development Plan attached as Exhibit B.

BK1657 PG1832

Exhibit E.11

4. Density and Square Footage. The Murnins and Kilgore shall be entitled to develop buildings of not more than Seventy-four Thousand (74,000) square feet of gross leasable space on the Murnin and Kilgore Property. "Gross leasable space" is defined as all interior areas that could be leased to a tenant, including bathrooms, halls, entryways, and common areas, not including basement level parking, stairs as required by the Uniform Building Code, elevators as required by the Uniform Building Code, mechanical rooms as required by the Uniform Building Code, and shafts, flues, pipe-shafts, vertical ducts, and the like, and their enclosing walls, which serve more than one floor of the building. Additionally, the term "gross leasable space" does not include stairs, dumb-waiters, lifts or any other similar item that is used for the exclusive use of any tenant.

The agreed upon density has been found to be consistent with the existing surrounding commercial buildings as required by the Board of County Commissioners as shown below:

<u>Neighboring property</u>	<u>building sf</u>	<u>acreage</u>
Jack Johnson	21,065	2.35
Med Center	23,846	2.13
Sunpeak lot 5	25,650.60	1.63
Sunpeak lot 6	23,681.45	1.51
Decker	10,500	.50
TOTAL	104,743.05	8.12

Under the in-fill principles defined in the Code for residential in-fill, it was determined that the Murnin and Kilgore property would receive one (1) unit per acre as commercial in-fill density. The Murnin and Kilgore property consists of 5.92 acres, therefore they would receive 5.92 units. Based upon the above density figures for the surrounding commercial areas, it was determined that the average density was 12,899.39 square feet per acre. Therefore if this average was used as a basis for the unit equivalent, the Murnin and Kilgore property could be eligible for 76,364.39 square feet of maximum gross density provided there were community benefits sufficient to justify the maximum density. In an effort to resolve the dispute, the parties have agreed that in light of the benefits granted to the County as described in this document, the maximum density allowed to the Murnin and Kilgore property would be 74,000 square feet of gross leasable space as defined above.

5. Approved Uses. Of the total gross leasable space granted, no more than 6,000 gross leasable square feet may be used for one restaurant, which shall not be a fast food restaurant. The second floor space in any building shall be used for office space only. The first floor space of buildings other than the restaurant may be used for either office uses, or limited retail uses that complement and support nearby office and residential uses, such as coffee shop, day care, deli, gift shop, copy shop, optic shop, health care products shop, pharmacy, beauty

Exhibit E.12

salon, travel agency, floral shop, photo shop, insurance shop, computer shop, card shop. No single first floor retail tenant space may exceed a total of 3,000 contiguous square feet of retail floor space, without the determination by the Summit County Community Development Director that additional contiguous retail space for that tenant will not significantly: 1) increase traffic problems; 2) diminish the community benefits described in this Consent Decree or depicted on Exhibit B; or 3) violate then current Summit County ordinances. Administrative decisions of the Community Development Director may be appealed as provided by applicable County ordinance and statute.

6. Consent Decree Controls. In the event certain terms of this Consent Decree conflict with terms of the 1998 Snyderville Basin Development Code or its successor, the terms of this Consent Decree shall control during the effective dates of this Consent Decree. In the event this Consent Decree has expired or been otherwise terminated, the provisions of the then existing Snyderville Basin Development Code shall control.

7. Open Space. The development of the Murnin and Kilgore Property shall provide at least 25% "meaningful open space". "Meaningful open space" does not include building footprints or parking areas. The buildings shall be reasonably clustered, and the open space segments should be reasonably contiguous and connected. It is agreed that the open space depicted in the the Approved Development Plan attached as Exhibit B exceeds these requirements. The additional open space provided by the attached Approved Development Plan is one of the community benefits which justify the density allowed under the attached Approved Development Plan.

8. Parking. As many parking stalls as reasonable shall be located at basement level, as depicted on Exhibit B. The remaining parking stalls shall be located and clustered as also depicted on Exhibit B, which assures that open space and aesthetics are reasonably maximized. Parking stalls shall be located and clustered such that traffic flow through the property will not be impeded. Parking stalls on the west portion of the property shall be signed as available for trailhead parking. The trailhead stalls shall be considered available for trailhead use and not dedicated to trailhead use. It is agreed that the Approved Development Plan attached as Exhibit B meets these requirements.

9. Setbacks. Minimum building and parking setbacks shall be in accordance with the setbacks depicted on Exhibit B attached.

10. Trail Development and Right-of-Way. The Murnins and Kilgores, or their successors, will dedicate to the Snyderville Basin Recreation Special Service District ("Rec. District") public rights of way for, and construct trails for, non-motorized trails across setback areas as depicted on Exhibit B. The rights of way shall be specifically called out on any recorded plat and shall be sufficient for the reasonable needs of the Rec. District. The area occupied by trail rights of way shall be included as setback space and meaningful open space.

Exhibit E.13

11. Road Access. There shall be shared Highway 224 access between the Murrin and Kilgore Property and the adjacent Decker Property to the south in order to minimize curb cuts on Highway 224. Ingress and egress shall be as described in Exhibit B. The Murrin and Kilgore, or their successor, will quitclaim to the Decker Property owners an easement for ingress from and egress to Sun Peak Drive by tenants and their patrons. Currently it is contemplated that a portion of the west end of Old Ranch Road will be relocated to enter Highway 224 at Sun Peak Drive. If such relocation does not occur, the parties will attempt in good faith to reach agreement with the owner(s) of the Decker Property to relocate the shared curb cut for the Murrin and Kilgore Property and Decker Property to a point which is lined up with Old Ranch Road.

12. Bus Stop. The Murrins and Kilgore, or their successor, will either construct a reasonably sized public bus stop at the eastern edge of the Murrin and Kilgore Property adjacent to Highway 224, as depicted in Exhibit B, or contribute \$15,000.00 to the cost of construction, whichever is less. The entire area occupied by the bus stop shall be included as setback space and meaningful open space.

13. Stream and Riparian Habitat and Corridor. The Murrins and Kilgore, or their successor, will quitclaim 10 acre-feet of Weber River decreed water rights, Entry Number 412, with an 1966 priority, to the Utah Division of Wildlife Resources or Division of Parks and Recreation for use as in-stream flow to help preserve the riparian habitat and stream flow in the stream bed between the Murrin and Kilgore Property and the adjoining church property. It shall be the State of Utah's obligation to file and prosecute the necessary change application in the Utah State Engineer's office. Beyond conveying the water rights, the only obligation of the Murrins and Kilgore, or their successor, will be reasonable support and cooperation in the change application process.

14. Architectural Features. Architectural features of the described buildings will complement and be reasonably consistent with existing surrounding buildings, landscape architecture and natural environments. The applicant shall be required to provide material boards and other architectural exhibits for the approval of the Summit County Community Development Director, consistent with then existing Summit County ordinances prior to the issuance of any development permit. Administrative decisions of the Community Development Director may be appealed as provided by applicable County ordinance and statute.

15. Sign Plan. Prior to the issuance of any temporary or permanent occupancy permit for any building, the Murrins and Kilgore, or their successors, shall submit a comprehensive Sign Plan for approval of the Summit County Community Development Director, consistent with the Summit County sign ordinances in effect as of the time of submittal of the Sign Plan. The Sign Plan shall include appropriately placed and sized marquees and directional signs for drivers. The Sign Plan shall provide for careful, reasonably clear and commercially reasonable directions to

Exhibit E.14

potential patrons to allow them to find desired goods and services. Administrative decisions of the Community Development Director may be appealed as provided by applicable County ordinance and statute.

16. Lighting Plan: Prior to the issuance of any temporary or permanent occupancy permit for any building, the Murnins and Kilgore, or their successors, shall submit a comprehensive Lighting Plan for approval of the Summit County Community Development Director, consistent with the Summit County lighting ordinances in effect as of the time of submittal of the Lighting Plan.

17. Successors and Assigns: This Consent Decree does not create any obligation of any sort upon the property owners to develop the Murnin and Kilgore Property. Should the property owners choose to develop the Murnin and Kilgore Property pursuant to this Consent Decree, the duties described in this Consent Decree will then be the responsibility of the property owners and shall be imposed as of the date of the first application for any development permit under this Consent Decree. This Consent Decree shall be binding on and inure to the benefit of the successors and assigns of the parties for the duration of this Consent Decree.

18. Development

(a) No development of the Murnin and Kilgore Property shall commence without first receiving the appropriate development permit. A development permit shall include any grading permit, building permit, sign permit or other permit required prior to commencing construction.

(b) The parties will mutually benefit from a reasonable Site Phasing Plan that will provide for the phasing of construction consistent with market demands for rental space. Within a reasonable time of commencing development, the Murnins and Kilgore, or their successors, and the Summit County Community Development Director will consult and attempt in good faith to reach agreement on a Site Phasing Plan. Absent an agreed Site Phasing Plan, development shall proceed as described in this Consent Decree.

(c) Except as otherwise described in an agreed Site Phasing Plan, all development commenced under the terms of this Consent Decree shall be completed by the expiration of this Consent Decree, however, in the event that construction is commenced, continuous and on-going at the time this Consent Decree expires, the Murnins and Kilgore, or their successors, shall have the right to complete the construction so long as it remains continuous and on-going until a certificate of occupancy is completed. In the event there is a pause in the construction for eight (8) months or longer, the right to develop shall be deemed expired and all permits shall be revoked.

Exhibit E.15

(d) Except as otherwise described in an agreed Site Phasing Plan, all public benefits granted under this Consent Decree shall become due and owing to the County upon the application for the first development permit.

(e) Prior to the issuance of any development permit under this Consent Decree, the Murnins and Kilgores, or their successors, shall execute a Development Improvement Agreement with the County Engineer and Planning Staff, with sufficient bonds as may be required.

19. Annual Review and Default. The Murnins and Kilgores, or their successors, shall provide to the Summit County Community Development Department, an annual written report detailing: 1) the status of their development project and rights granted under this Consent Decree; 2) the projected activity for the next year; and 3) the status of all benefits given and explanations, if required, of any benefit which is deficient. The annual written report shall be due on or before the 1st day of December of each year this Consent Decree is in effect. The Community Development Department shall report to the Planning Commission and the Board of County Commissioners regarding this report and shall conduct hearings with those bodies, if necessary, to determine whether the Murnins and Kilgores, or their successors, are in compliance. In the event it is determined that the Murnins and Kilgores, or their successors, are not in compliance, notice shall be given to the Murnins and Kilgores, or their successors, in writing of the deficiencies with reasonable time granted to cure the deficiencies. In the event the deficiencies are not cured in a timely manner, the County may declare a default and revoke all rights granted under this Consent Decree.

20. Construction of Consent Decree. This Consent Decree should be construed so as to effectuate the public purpose of settlement of disputes.

21. Mutual Releases. The Murnins and Kilgores, on behalf of themselves and the Murnins' and Kilgores' partners, officers, directors, employees, agents, attorneys and consultants, hereby release the County and the County's board members, officials, employees, agents, attorneys and consultants. Likewise, the County, on behalf of itself and the County's board members, officials, employees, agents, attorneys, and consultants, hereby releases the Murnins and Kilgores and the Murnins' and Kilgores' partners, officers, directors, employees, agents, attorneys and consultants, from and against any and all claims, demands, liabilities, costs, and expenses of whatever nature, whether known or unknown, and whether liquidated or contingent, arising on or before the date of this Consent Decree in connection with the application, processing or approval of the development, including, but not limited to, the claims set forth in various requests for rezoning or Vested Rights Determination and correspondence previously submitted to the County on behalf of the Murnins and Kilgores referring and relating to various issues arising out of the rezoning process.

Exhibit E.16

22. Enforcement. The parties recognize that the County has the right to enforce the terms of this Consent Decree by seeking an injunction to compel compliance. The parties further recognize that the Murnins and Kilgore, or their successors, have the right to enforce the provisions of this Consent Decree by seeking all remedies available at law and/or equity. In the event that the Murnins and Kilgore or any successor to the Murnin and Kilgore Property violates the terms of this Consent Decree, the County may, without electing to seek an injunction and after thirty (30) days written notice to correct the violation take such actions as shall be allowed under law until such conditions have been honored by the Murnins and Kilgore, or their successors. Both parties shall be free from any liability for damages or attorney's fees arising out of the exercise of their rights under this paragraph; provided, however, that each party may be liable to the other for the exercise of such rights in violation of Rule 11 of the Utah Rules of Civil Procedure, Rule 11 of the Federal Rules of Civil Procedure and/or Utah Code Ann., section 78-27-56, as each may be amended.

23. No Waiver. Failure of a party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future time said right or any other right it may have hereunder. Unless this Consent Decree expires or is amended in writing by both parties approved by a vote of the Board taken with the same formality as the vote approving this Consent Decree, neither party has the power to amend, modify or alter this Consent Decree or waive any of its conditions.

24. Entire Agreement. This Consent Decree constitutes the entire agreement between the parties with respect to the issues addressed herein and supersedes all prior agreements, whether oral or written, covering the same subject matter, except other agreements not in conflict with the provisions of this Consent Decree. This Consent Decree may not be modified or amended except in writing mutually agreed to and accepted by both parties to this Agreement.

25. Notices. All notices hereunder shall be given in writing by certified mail, postage prepaid, at the following addresses:

To the County:

The Board of County Commissioners of Summit County
Summit County Courthouse
P. O. Box 128
Coalville, UT 84017

Director of Community Development
Summit County
P. O. Box 123
Coalville, UT 84017

BK1657 PG1838

Exhibit E.17

With copies to:

SUMMIT COUNTY ATTY.
P.O. Box 128
Coalville, Utah 84014

To the Murnins and Kilgores:

MURNINS and KILGORES
c/o Shawn E. Draney
Andrew M. Morse
Scott H. Martin
SNOW, CHRISTENSEN & MARTINEAU
PO Box 45000
Salt Lake City, Utah 84145-5000

Upon written notice to all other parties, a party may change its name and mailing address for receipt of notice under this subsection.

26. Applicable Law. This Consent Decree is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Utah.

27. Execution of Consent Decree. This Consent Decree may be executed in multiple parts as originals or by facsimile copies of executed originals; provided, however, if executed and evidence of execution is made by facsimile copy, then an original shall be provided to the other party within seven (7) days of receipt of said facsimile copy.

28. Relationship of Parties. The contractual relationship between the County and the Murnins and Kilgores arising out of this Consent Decree does not create an agency relationship. Nor does this Consent Decree create any third party beneficiary rights. It is specifically understood by the parties that: (a) the land is privately held; (b) the County has no interest in, responsibilities for or duty to third parties concerning any improvements to the land unless the County accepts the improvements pursuant to the provisions of this Consent Decree or in connection with subdivision plat or site plan approval; and (c) the Murnins and Kilgores, or their successors, shall have the full power and exclusive control of the Property subject to the obligations of the Murnins and Kilgores, or their successors, set forth in this Consent Decree.

29. Institution of Legal Action. In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any default or breach, to specifically enforce any covenants or agreements set forth in this Consent Decree or to enjoin any threatened or attempted violation of this Consent Decree; or to obtain any remedies consistent with the purpose of this Consent Decree. Legal actions shall be instituted in the Third Judicial District

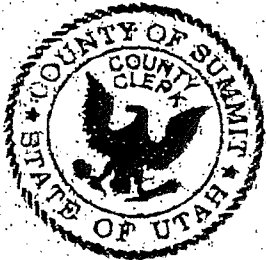
Exhibit E.18

Court of Summit County, State of Utah, or in the United States District Court for the Central District of Utah.

30. Expiration: This agreement shall be in effect for a period of five (5) years from the effective date of this agreement. The effective date shall be January 1, 2004 or the date on which the Board of County Commissioners approve this agreement by majority vote in an open meeting, whichever is later. Prior to the expiration of the five (5) year period, the Murnins and Kilgore, or their successors, may request one (1) additional five (5) year extension of this Consent Decree from the Board of County Commissioners. The Board shall review the extension request to ensure that the request does not jeopardize the health, safety and welfare of the citizens of Summit County. If there is no substantial change in the property which raises issues regarding health, safety and welfare, if the request is timely, if the Annual Reports have been provided as required and are favorable and if the terms of this Consent Decree have been complied with during the previous five (5) years, the approval of the five (5) year extension will be granted by the County. At the expiration of this agreement, or the renewal period, the property shall become subject to the then existing Development Code and General Plan and all development rights vested under this Consent Decree shall expire.

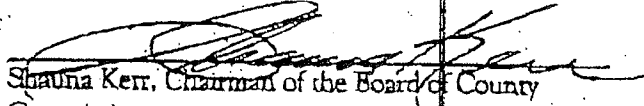
This Consent Decree may be signed in counterpart, all of which together shall constitute one Consent Decree with original signature pages filed with the County Recorder.

DATED this 3 day of December, 2003

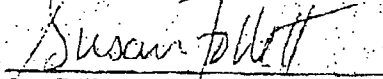


COUNTY:

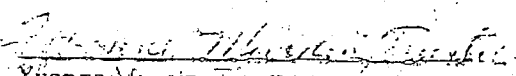
BOARD OF COUNTY COMMISSIONERS OF
SUMMIT COUNTY, STATE OF UTAH


Shauna Kerr, Chairman of the Board of County
Commissioners

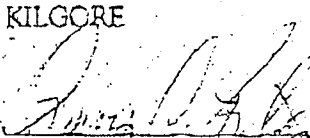
Attest:


Sue Follett
Summit County Clerk

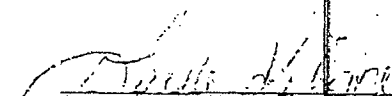
MURNIN FAMILY TRUST


Yvonne Murnin, Trustee

KILGORE


Gary Kilgore, ~~President~~

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Gayle Kilgore, ~~President~~

**AGREEMENT
AMONG
MOUNTAIN REGIONAL WATER SPECIAL SERVICE DISTRICT OF
SUMMIT COUNTY,
THE MURNIN FAMILY TRUST,
AND
GARY AND GAYLE KILGORE
REGARDING
WATER SERVICE
AND
WATER PIPELINE EASEMENT**

This Agreement is entered into by and among Mountain Regional Water Special Service District of Summit County, a Utah Special Service District ("Mountain Regional"), the Murnin Family Trust, Gary and Gayle Kilgore (the Murnin Family Trust and the Kilgores are referred to collectively here as "Murnins and Kilgores").

RECITALS

A. The Murnin Family Trust and the Kilgores respectively own two parcels of real property which are contiguous and which total nearly 6 acres (the Murnin Family Trust parcel and the Kilgore parcel are referred to collectively as the "Murnin and Kilgore Property"). The Murnin and Kilgore Property is depicted and described in Exhibit A attached. The Murnins and Kilgores are attempting to develop the Murnin and Kilgore Property as described in the Consent Decree attached as Exhibit B, or sell the Murnin and Kilgore Property for such development by others.

B. Mountain Regional is a retail water supplier that is ready, willing and able to provide culinary quality water for the anticipated development on the Murnin and Kilgore Property, and pending development, to provide culinary quality water for indoor use to the two homes on the Murnin and Kilgore Property, all upon the terms and conditions described in this Agreement.

C. Pursuant to the Pipeline Easement Agreement attached as Exhibit C, the Murnins and Kilgores granted Iron Mountain Associates, L.L.C. a permanent, non-exclusive water pipeline easement across the south 15 feet of the Murnin and Kilgore Property. The purpose of the pipeline is to transport culinary quality water to the Colony subdivision, the Murnin and Kilgore Property and other properties. Under Article 4 of the Easement Agreement, the Murnins and Kilgores retained a reversionary interest in the pipeline easement and pipeline. If the pipeline easement and pipeline is not transferred to a public entity that is ready, willing and able to serve the Murnin and Kilgore Property, without charge for connection or impact fees, before July 1, 2005, the easement shall revert to the Murnins and Kilgores. Mountain Regional is willing to offset connection charges and impact fees, including other applicable fees, only to the extent of the appraised fair market value of the pipeline easement, which is acceptable to the Murnins and Kilgores. The Murnins and Kilgores have

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ALAN SPRIGGS, SUMMIT CO RECORDER
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REQUEST: SUMMIT COUNTY ATTORNEY

agreed to quit-claim to Mountain Regional all of their interests under the Pipeline Easement Agreement and all of their interests in and to the pipeline and pipeline easement, including the reversionary interest, upon the terms and conditions described in this Agreement.

AGREEMENT TERMS

In consideration of the mutual benefits which will accrue to the parties, the parties agree as follows:

1. Service of Water for Murnin and Kilgore Property Development. Mountain Regional shall provide commercial water service to the Murnin and Kilgore Property for the development and use of the Murnin and Kilgore Property as described in the Consent Decree. Currently the Murnins and Kilgores intend to provide outdoor irrigation water from their own water right. However, Mountain Regional's ordinance setting impact fees provides different impact fees depending upon whether water rights are conveyed to Mountain Regional or not. The Murnin and Kilgores may convey a water right to Mountain Regional to lower the impact fee pursuant to the Impact Fee Resolution. However, it is agreed that any such conveyance will be on terms which would apply to other similarly situated Mountain Regional customers or potential customers, and if agreement is reached on conveyance of a portion of Water Right Number 35-8412 to Mountain Regional, Mountain Regional will provide service for outdoor water as well as indoor water for the development of the Murnin and Kilgore Property. All service by Mountain Regional will be provided in a manner consistent with Mountain Regional's Uniform Rules and Regulations, as those Uniform Rules and Regulations may from time to time change. Subject to an offset for the value of the pipeline easement as described below, Mountain Regional's connection and impact fees, including other applicable fees, shall be paid by the Murnins and Kilgores to Mountain Regional, as the new development is connected to the Mountain Regional system. The connection and impact fees, including other applicable charges, are subject to change from time to time as determined by Mountain Regional's governing body. Pending development of the Murnin and Kilgore Property, Mountain Regional will provide indoor culinary water service to the two homes existing on the Murnin and Kilgore Property. Mountain Regional will offset against the amount owed by Mountain Regional for the Pipeline Easement as described below a connection and impact fees, including other applicable fees, for such service consistent with Mountain Regional's impact fee and rate ordinances. Because the connection to existing the homes is expected to be short term, Mountain Regional will credit the amount charged for the impact fees of the existing homes against impact fees to be paid upon development of the Murnin and Kilgore Property. The Murnins and Kilgores and their successors shall pay usual Mountain Regional water rates, as those water rates may change from time to time. Schedule 1 is hereby incorporated by this reference into the Agreement by way of example to the fee methodology.

2. Pipeline Easement and Pipeline Easement Agreement. The Murnins and Kilgores have, contemporaneous with the execution of this Agreement, executed and delivered the Pipeline Easement Quit-claim Deed and Assignment form attached as Exhibit D. Subject to offset described below, Mountain Regional shall pay the fair market value, as of the date of this Agreement, of the pipeline easement. Mountain Regional shall promptly hire, at Mountain Regional's sole expense,

a qualified, impartial appraiser that is reasonably acceptable to the Murnins and Kilgores to appraise the fair market value, as of the date of this Agreement, of the pipeline easement. The appraisal shall be completed on or before sixty (60) days following the execution of this Agreement. The appraisal shall be promptly made available to the Murnins and Kilgores. The Murnins and Kilgores shall have fourteen (14) calendar days following receipt of the appraisal to determine if the appraised value is acceptable and give Mountain Regional notice of such decision. If the appraised value is not acceptable, the Murnins and Kilgores shall promptly hire, at the sole expense of the Murnins and Kilgores, a qualified, impartial appraiser reasonably acceptable to Mountain Regional to appraise the fair market value of the pipeline easement, as of the date of this Agreement. The appraisal shall be completed on or before sixty (60) days following the notice to Mountain Regional that the appraised value described in the appraisal procured by Mountain Regional is not acceptable. The appraisal shall be promptly made available to Mountain Regional. If the appraisers do not agree on the fair market value, they shall confer and attempt to arrive at an agreed fair market value. If the appraisers cannot agree on the fair market value, an average of the two values shall be accepted by the two parties as the fair market value. Exhibit A, Quit Claim Deed, is incorporated herein by this reference.

3. Setoff. No money will change hands between Mountain Regional and the Murnins and Kilgores until a fair market value is determined for the pipeline easement as described above. Then, the amount then owed by the Murnins and Kilgores to Mountain Regional for impact and connection fees, including other applicable fees, will be set off against the amounts owed by Mountain Regional for the pipeline easement. Any amounts owed after such set off shall be paid promptly.

4. Covenants Running with the Land. The obligations of Mountain Regional and the Murnins and Kilgores shall be appurtenant to and run with the land and be binding on successors. If a sale of the Murnin and Kilgore Property by the Murnins and Kilgores is closed, Mountain Regional will look solely to the successor of the Murnins and Kilgores for performance of this Agreement.

5. Representation and Warranty of Authority. Those individuals signing this Agreement in a representative capacity represent and warrant that they have been duly and properly authorized to enter this Agreement in that representative capacity.

6. Attorneys' Fees. In the event a suit or action is instituted to interpret or enforce the terms of this Agreement, the prevailing party or parties shall be entitled to recover from the other parties reasonable attorneys' fees and expert fees.

7. Prior Agreements. This Agreement supersedes and replaces all written and oral agreements previously made and existing between the parties and constitutes the entire agreement of the parties, and may be modified only by written agreement signed between the Developer and Mountain Regional.

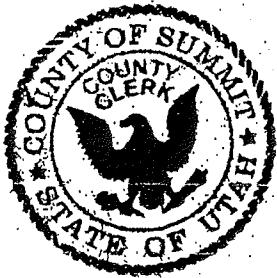
8. Representations of Murnins and Kilgores. The Murnins and Kilgores represent that

to the best of their knowledge, information and belief the Water Pipeline Agreement is valid, enforceable and in good standing and the Murnins and Kilgore have the right to convey all of the rights of the property owners described in that Pipeline Easement Agreement. The only representations, agreements and warranties made by parties are those expressed in writing in this Agreement.

9. Cooperation of the Parties. The parties agree to reasonably cooperate and execute the documents necessary to complete the transactions described in this Agreement.

Dated this 25th day of August, 2004.

MOUNTAIN REGIONAL WATER
SPECIAL SERVICE DISTRICT



Attest:

K.E. Woolstenhulme
By: Ken Woolstenhulme
Chair, County Commission

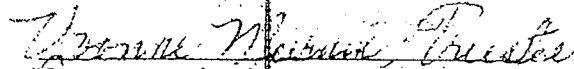
Sue Follett
Sue Follett
Summit County Clerk

Approved as to Form:

Renee Spooner
Renee Spooner
Summit County Attorney

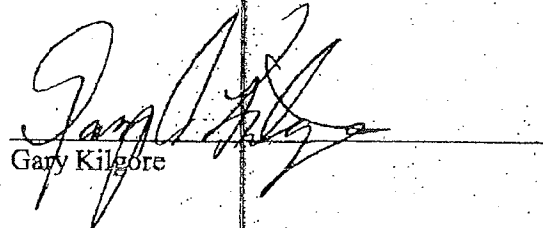
Dated this 30 day of September, 2004.

MURNIN FAMILY TRUST


Yvonne Murnin, Trustee

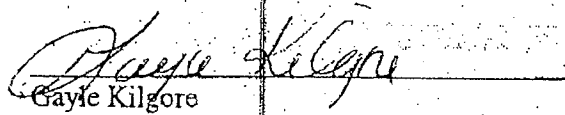
Dated this 30 day of September, 2004.

GARY KILGORE


Gary Kilgore

Dated this 30 day of September, 2004.

GAYLE KILGORE


Gayle Kilgore

WITNESS the hands of said Grantors this 30 day of Sept., 2004.

Gary Kilgore
Gary Kilgore, Grantor

Gayle Kilgore
Gayle Kilgore, Grantor

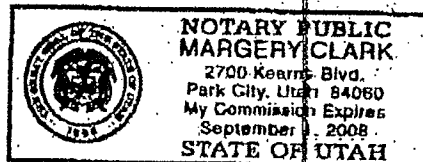
Yvonne Murnin, Trustee
Yvonne Murnin, as Trustee of the Murnin Family
Trust, Grantor

STATE OF UTAH)
)ss.
COUNTY OF SUMMIT)

On the 30 day of September, 2004, personally appeared before me GARY KILGORE and GAYLE KILGORE, the signers of the foregoing Pipeline Easement Quit Claim Deed and Assignment of Water Pipeline Easement Agreement, who duly acknowledged to me they executed the same.

Margery Clark
NOTARY PUBLIC

STATE OF UTAH)
)ss.
COUNTY OF SUMMIT)



On the 30 day of September, 2004, personally appeared before me YVONNE MURNIN, as Trustee of the Murnin Family Trust, the signer of the foregoing Pipeline Easement Quit Claim Deed and Assignment of Water Pipeline Easement Agreement, who duly acknowledged to me that she executed the same on behalf of the Murnin Family Trust.

Margery Clark
NOTARY PUBLIC

